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UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

FRANCES KAPLAN-NYLEN,
Plaintiff

v.

RICHARD J. BOUDREAU &
ASSOCIATES, LLC,
Defendant.

CIVIL ACTION NO.

CV 11 00440 KSC

COMPLAINT AND DEMAND FOR
JURY TRIAL
(Unlawful Debt Collection Practices)

COMPLAINT

I. INTRODUCTION

1. This is an action for damages and/or declaratory relief brought by an individual consumer for Defendant's violation of the Fair Debt Collections Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA") and the Hawaii Unfair and Deceptive Acts and Practices Act Hawaii Revised Statute ("HRS") § 480 ("UDAP") which prohibit debt collectors from engaging in abusive,

deceptive, and unfair practices.

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 USC § 1692k(d), 28 USC § 1337, and supplemental jurisdiction exists for the state law claim pursuant to 28 USC § 1367. Declaratory relief is available pursuant to 28 USC §§ 2201 and 2202. Venue in this District is proper in that the Defendant transacts business in this jurisdiction and the conduct complained of occurred in this jurisdiction.

III. PARTIES

3. Plaintiff FRANCES KAPLAN-NYLEN is a natural person residing in Honolulu, Hawaii.

4. Defendant RICHARD J. BOUDREAU & ASSOCIATES, LLC is a limited liability company engaged in the business of collecting debts in this state with a principal place of business located at 5 Industrial Way, Salem NH 03079. The principal purpose of Defendant RICHARD J. BOUDREAU & ASSOCIATES, LLC is the collection of debts using the mail and telephone, and Defendant RICHARD J. BOUDREAU & ASSOCIATES, LLC regularly attempts to collect debts allegedly to be due another.

5. Defendant RICHARD J. BOUDREAU & ASSOCIATES, LLC is a “debt collector” as defined by the FDCPA 15 USC § 1692a(6).

IV. FACTUAL ALLEGATIONS

6. On or about January 3, 2011, Defendant RICHARD J. BOUDREAU & ASSOCIATES, LLC (“Defendant RJB”) mailed to Plaintiff FRANCES KAPLAN-NYLEN (“Plaintiff”) a letter by US Postal mail regarding a debt allegedly owed by Plaintiff to LVNV

Funding LLC. The letter requested payments of a debt which Plaintiff did not owe.

7. On or about January 11, 2011, Plaintiff was called by RJB. Again, RJB demanded payments from Plaintiff for a debt that Plaintiff did not owe. Based on the demands of RJB, Plaintiff paid \$8500 to RJB.

V. FIRST CLAIM FOR RELIEF

8. Plaintiff repeats and realleges and incorporates by reference paragraphs 1 through 7 above.

9. Defendant RJB violated the FDCPA. Defendant's violations include, but are not limited to, the following:

- a. Defendant RJB violated 15 USC § 1692c(b) by communicating about a debt with a third party without prior consent of the consumer;
- b. Defendant RJB violated 15 USC § 1692e by using a false, deceptive, or misleading representation to demand payment for debt that Plaintiff did not owe;
- c. Defendant RJB violated 15 USC § 1692f by collecting from Plaintiff any amount that was not authorized by agreement creating the debt or authorized by law;

10. As a result of the above violation of the FDCPA, Defendant RJB is liable to Plaintiff for declaratory judgment that Defendant's conduct violated the FDCPA and that Plaintiff be awarded actual damages, statutory damages and costs and attorney fees.

VI. SECOND CLAIM FOR RELIEF

11. Plaintiff repeats and realleges and incorporates by reference paragraphs 1 through 10

above.

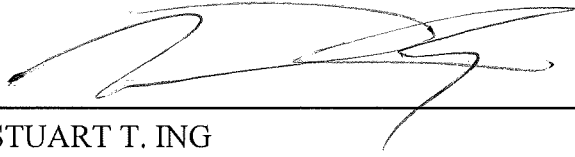
12. Defendant RJB violated the Hawaii UDAP Act HRS § 480-2 by collecting on a debt which Plaintiff did not owe.

13. As a result of Defendant RJB's violation of the Hawaii UDAP Act, Defendant RJB is liable to Plaintiff for declaratory and injunctive relief and that Plaintiff be awarded actual damages, statutory damages and costs and attorney fees.

WHEREFORE, Plaintiff prays this Court enter the following relief:

- A. Declaratory judgment that Defendant RJB's conduct violated the FDCPA and declaratory and injunctive relief for the Defendant RJB's violation of the Hawaii UDAP Act,
- B. Actual damages,
- C. Statutory damages pursuant to 15 USC 1692k,
- D. Statutory / treble damages pursuant to HRS 480-13,
- E. Costs and reasonable attorney fees pursuant to 15 USC 1692k and HRS 480-13,
- F. Any other relief as this Court may deem just and proper.

DATED: Honolulu, Hawaii, July 13, 2011



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